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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/029,740	12/21/2001	William E. Webler	ACSC 60272 (3082)	5365

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EXAMINER

LIN, JEYUHU

ART UNIT

PAPER NUMBER

3737

DATE MAILED: 02/26/2004

10

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

10/029,740

Applicant(s)

WEBLER, WILLIAM E.

Examiner

Jeoyuh Lin

Art Unit

3737

-- Th MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 12 November 2003.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-3 and 5-35 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-3, 5-19, 22, 25, 29 and 32-35 is/are rejected.
- 7) ☒ Claim(s) 20, 21, 23, 24, 26-28, 30 and 31 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

## Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

## Attachment(s)

- ☒ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_
- ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_
- ☐ Notice of Informal Patent Application (PTO-152)
- ☐ Other: \_\_\_\_\_

## **DETAILED ACTION**

### **Entry of Amendment**

1. Applicant's amendment, filed on November 12, 2003, as paper No. 10, is acknowledged. Claims 1-3 and 5-35 are currently pending.

### ***Claim Rejections - 35 USC § 112***

2. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

-Claims 1-3, and 5-18 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

-Claim 1 recites the limitation "said imaging information component" in line 9.

There is insufficient antecedent basis for this limitation in the claim because it is unclear whether the term is meant to be the same as "image information acquisition component", "image information storage component, or image information playback component.

### ***Claim Rejections - 35 USC § 102***

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

-Claims 1, 2, 8-13, 17-19, 22, 25, 29, and 32-35 are rejected under 35 U.S.C. 102(e) as being anticipated by Engelhardt et al. (US 6,263,234 B1)

Engelhardt teaches a system for acquiring system information from within a body lumen, in this case, the mouth, comprising the following:

- Image acquisition component to detect information from a body lumen by performing a rotational scan. (Column 2, lines 30-35)
- Image storage, as in 8. (Column 6, lines 8-13)
- Image output, in the form of a display, as in 17, 18, 22, in displaying a digitized image, as in 25. (Column 6, lines 10-13)

Engelhardt does not teach image playback, or transmission lines connecting the storage or output. But it is well known in medical imaging that an image may be retrieved from the storage and be played back on a display. Also, Engelhardt does not teach a variety of storage device as claim 9-11 and 32-35 state, or but it is also well known to one of ordinary skill in the art that a variety of permanent or temporary storage devices such as disks, tapes, RAM, and optical memory disks exist to store digitized image. Furthermore, since the storage, acquisition, and processing of image information are digitized, it is well known to one of ordinary skill in the art that a CPU would be used, as in 12 and 13. (Column 5, lines 58-67 and column 6, lines 1-12 and lines 45-50).

***Allowable Subject Matter***

4. Claims 3, 5-7, and 14-16 would be allowable if rewritten to overcome the rejection(s) under 35 U.S.C. 112, second paragraph, set forth in this Office action and to include all of the limitations of the base claim and any intervening claims.

5. Claims 20, 21, 23, 24, 26-28, 30, and 31 objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

***Response to Arguments***

6. Applicant's arguments with respect to claims 1-3 and 5-35 have been considered but are moot in view of the new ground(s) of rejection.

***Conclusion***

7. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

-Chornenky (5,582,171) teaches an imaging guidewire, as in 3, comprising a rotational scanner, video output, shaft with imaging acquisition component configured to rotate, and a controller.

-Silverstein et al. (US 6,035,229) teaches a rotating imaging probe for rotational scanning.

-Toida (US 6,668,185 B2) teaches an endoscope apparatus for setting scanning area, comprising rotational scanning with an optical imager.

-Swanson et al. (US 6,445,939 B1) teaches a small rotatable optical guidewire.

-Pitris et al. (US 6,564,087 B1) teaches a rotational optical tomography imager.

8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jeoyuh Lin whose telephone number is (703) 306-5990. The examiner can normally be reached on m-f, 8:30-6:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Dennis Ruhl can be reached on (703) 308-2262. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

JYL

JYL

February 18, 2004

  
DENNIS W. RUHL  
SUPERVISORY PATENT EXAMINER